GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

TWD – Appeal Petition filed by Sri Donaka Poorna Chandra Rao, S/o D. Krishna Rao, Vizianagaram District filed under Section 7 of the Act 16 of 1993 against the proceedings Lr.(M) Rc.255/2007/C5, dated 31.11.2018 of the District Collector, Vizianagaram cancelling his ST 'Jatapu' Community Certificate under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (A.P. Act No.16/1993) – Appeal Petition dismissed – Orders - Issued.

TRIBAL WELFARE (CV) DEPARTMENT

G.O.Ms.No.44.

Dated:12.07.2023
Read the following:-

1. Proceedings of the District Collector, Vizianagaram, Lr.(M) Rc.255/2007/C5, dated 31.11.2018.
2. Representation/ Appeal Petition filed by Sri Donaka Poorna Chandra Rao, S/o D. Krishna Rao, Vizianagaram District, before the Government, dated 12.05.2021.
3. Govt. Memo No.778452/CV/A2/2021, Dated.21.11.2022 & 24.02.2023.
4. From the Tahsildar, Komarada, Parvathipuram Manyam District, Rc.No.172/2022/A/ Dt.02.03.2023.
5. Written arguments filed by the counsel for the appellant before the Government, dt.26.11.2022 submitted on 07.03.2023.

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ORDER:

In the Proceedings 1st read above, the Collector & District Magistrate, Vizianagaram had issued orders cancelling the "ST-Jatapu" community certificate of Sri Donaka Poorna Chandra Rao, S/o D. Krishna Rao, Vizianagaram District, issued by the then Tahisdhar, Parvathipuram in SR.No.420/85, dated 31.11.2018.

2. In the reference 2nd read above, Sri Donaka Poorna Chandra Rao has filed Appeal Petition before the Government against the Proceedings of the District Collector, Vizianagaram. After examining the said Appeal Petition, Government have admitted the same and Para-wise remarks on the grounds filed by the Appellant along with connected records were called for from the District Collector in Govt. Memo 3rd read above.

3. In the letter 4th read above, the Tahsildar, Komarada, Parvathipuram Manyam District has furnished the para-wise remarks on the Appeal Petition filed by Sri Donaka Poorna Chandra Rao, S/o D. Krishna Rao.

4. The said Appeal Petition has been posted for hearing before the Hon'ble Appellate Authority on 26.11.2022 & 07.03.2023 duly informing the same to the Appellant and the Counsel for the Appellant vide reference 3rd read above. During the course of the hearing and on perusal of the records/ the copies of evidences/ academic record/ grounds & written arguments filed by the Appellant/ Para-wise remarks submitted by the Tahsildar, Komarada, Parvathipuram Manyam District and proceedings of the District Collector, Vizianagaram, dated 31.11.2018, the Appellate authority has observed that;

- The Present Appeal is filed against the orders passed in RC No 255/2007/C5, dated 31-11-2018 by the District Collector, Vizianagaram, cancelling the ST Jatapu Caste Certificate issued to the Appellant in SR. No.420/85 dated 13-02-1985 by the Tahsildar, Parvathipuram.
- Perused the grounds of Appeal and connected records available. Heard both sides. There is a direction from the Hon'ble High Court in WP.No.12084 of 2021 for disposal of the Appeal. The counsel for the Appellant submitted that the grounds of appeal may be treated as written submissions. He also made his oral arguments during hearing of the case. After hearing the case, the following order is made.
- Initially the Chairman Visakhapatnam Port Trust, Visakhapatnam requested the Collector, Vizianagaram to enquire into the genuineness of ST Jatapu Caste Certificate produced by Sri Donaka Poorna Chandra Rao S/o D. Krishna Rao.

(P.T.O)

- On the instructions of the District Collector, the Tahsildars, Komarada and Parvathipuram submitted their enquiry reports stating that the S.T. caste certificate is not genuine one and it deserves cancellation. The District Collector further referred the matter to the District Level Scrutiny Committee (DLSC) for an enquiry and report under rule 9 (1) of the Act 16 of 1993 and AP (SCs, STs and BCs) Issue of Community, Nativity and Date of Birth Certificate Rules 1997.

- The Project Officer, ITDA Parvathipuram and Chairman of the DLSC observed that there is no Surname "Donaka" in ST (Jathapu) caste, and it relates to Schedule caste. The Committee further reports that the Appellant here in deposed that he was adopted by Donaka Krishna Rao, who belongs to Schedule Caste(SC) and further stated that he got (3)children, who married other than members of ST, and he has no social or cultural linkages with the ST (Jatapu) people.

- The Report further says that in support of the claim, the Appellant produced xerox copies of the Community Certificate issued as ST-Jatapu by the Tahsildar and Transfer Certificate(TC) dated 5-3-1982.The DLSC finally concluded that the S.T. (Jathapu) caste certificate issued by the then Tahsildar, Parvathipuram vide SR.No.420/85, dt.13-2-1985 in favour of Donaka Poorna Chandra Rao is not genuine and it deserves cancellation.

- As per the records, the District Collector issued a show cause notice to the Appellant and supplied copy of the findings of the DLSC calling for an explanation. The Appellant submitted his explanation and also personally appeared on 21-07-2018 before the District Collector and reiterated his contention that was made earlier before the DLSC. The District Collector after an enquiry held that the Appellant failed to produce relevant documentary evidence in support of his claim. The District Collector finally passed an order cancelling the community certificate issued to the Appellant here in as ST-Jatapu by the Tahsildar, Parvathipuram in SR.No.420/85 dated 13-02-1985. The present Appeal arises from this impugned order.

- The stand of the Appellant is that he belongs to ST-Jatapu community by birth and his parents viz., late Sri Meenaka Sambayya and late Smt. Meenaka Parvathamma, who belongs to ST-Jatapu community of Nayuduvalsa village, Komarada Mandal of Vizianagaram District and after death of his parents he became an orphan and that one Donaka Krishna Rao, a Christian, has taken care of him and admitted in the school with the surname 'Donaka' and also noted his father name as Donaka Krishna Rao instead of Meenaka Sambayya'. The appellant argued before the authority that the report of the Tahsidlar, Komarada is supporting his claim as ST- Jatapu. The para-wise remarks filed by the Tahsildar, Komarada have opposed the same.

- The question that now falls for consideration for this authority is as to whether the claimant is a notified ST-Jatapu? and What evidence is available to in support of the claim of the Appellant as ST-Jatapu?

- The tribes or tribal communities, which are specified in the notification issued by the President of India under Article 342(1) alone are deemed to be STs for claiming benefits under the Constitution of India.

- The appellant has mainly relied on the report of the Tahsildar, Komarada dated 8-11-2010 which shows that the Appellant is the son of One Meenaka Sambayya and Meenaka Parvatamma couple, who belongs to Jatapu (ST) Caste of Nayuduvalasa village, Komarada Mandal.

- However there is no independent corroborative evidence in support of the report of the Tahsildar who reported on the oral testimony of a few respondents. These reports are contradicting the material aspects of earlier reports of Tahsildar of Komarada and Parvathipuram. The appellant failed to produce any evidences in support of his claim to the effect that he belongs to S.T except the Xerox copy of caste certificate issued by the then Tahsildar, Parvathipuram during 1985 and Transfer Certificate dt.5.3.1982 which is in question.

- The claimant failed to produce the birth and death registers of Sri Meenaka Sambayya and late Smt. Meenaka Parvathamma, who are claimed to be of his natural parents to show that they belong to ST-Jatapu. Admittedly the school records of the appellant show that his surname as Donaka not Meenaka which is contentious issue in this appeal. School record is one of the relevant factors to be considered under Rule 8(d)(5) of the Rules 1997. The appellant failed to discharge his burden on him to prove that he belongs to ST- Jatapu.

[Contd..on P.3]

- In the given case, the appellant is claiming that he originally hailed from Nayuduvalasa (v), Komarada (M). The clause (g) of Rule 5 of Rules, 1997 provides an importance for verification of the claims in respect of the tribal communities who are not "traditional inhabitants" of the area of territorial jurisdiction of the "Competent Authority". The ST certificate which is in question was issued by Tahsildar, Parvathipuram to the appellant who has no jurisdiction to issue community certificate as ST-Jatapu to the appellant since the plea of the appellant is that they are originally from the Komarada(M).

- The documentary evidence is contradicting the oral statements of a few individuals. It is on the record that all the earlier reports of the Tahsidlars of both Komarada and Parvathipuram are against the claim of the Appellant as ST-Jatapu. In view of the other documentary evidences which are contra to the claim of the appellant, it is unsafe to rely on the oral testimonies of the witnesses recorded by the Tahsildar. Therefore the report of Tahisildar issued in 2010 is not believable.

- In determining the status of the parties, the status of parents alone has to be taken into consideration. The plea of the appellant is that his natural parents are ST-Jatapu but was brought up by a non-tribal considering him as an orphan. There is no acceptable and believable evidence produced by the appellant that he was off spring of the ST parents.

- Moreover finding of the DLSC is that the Appellant is not having cultural linkages with the Jatapu-ST community. Though it is not the sole criteria to determine the community status of the claimant, but it plays an important role to determine the community status of STs. The evidence on the record shows that there is no surname Donaka in the ST-Jatapu. The records also show that the Appellant married a non ST woman, and his sons also married non ST persons.

- In view of the above, there is no irregularity or illegality in cancelling the community certificate issued to the Appellant herein. The impugned order passed vide RC.No. 255/2007/C5 dated 31-11-2018 by the District Collector, Vizianagaram, cancelling the ST Jatapu Caste Certificate issued to the Appellant herein SR.No.420/85, dated 13-02-1985 by the Tahsildar, Parvathipuram is here by upheld. In the result, Appeal Petition is dismissed. As a sequel interim orders if any passed in the matter are hereby vacated. Appeal is disposed of accordingly.

5. Government after careful examination of the appeal petition and the circumstances stated supra and in exercise of the powers conferred under Section 7(2) of A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made there under, decide that the appeal petition filed by Sri Donaka Poorna Chandra Rao, S/o D. Krishna Rao does not deserve any interference. Hence, the proceedings in Lr.(M) Rc.255/2007/C5, dated. 31.11.2018 of the District Collector, erstwhile Vizianagaram District is hereby upheld and the appeal petition filed Sri Donaka Poorna Chandra Rao, S/o D. Krishna Rao is hereby dismissed. The certificate issued by the then Tahisdhar, Parvathipuram deemed to be cancelled.

6. The Collector & District Magistrate, Parvathipuram Manyam District is directed to take necessary consequential action in the matter, as per the A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made therein.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT

To
The Collector & District Magistrate, Parvathipuram Manyam District.
The Collector & District Magistrate, Vizianagaram District.

Sri D. Poorna Chandra Rao,
R/o D.No.07-09-41/2, Old Gajuwaka,
Panthulugari Meda, Visakhapatnam- 530026.**(BY RP)**

Sri Narasimha Rao Gudiseva, Advocate,
SF-3, Koduru Castles,Vishnu Vardhan Rao Street,
Near Y.V.Rao's Hospital, Labbipet, Vijayawada-10.

Copy to:
The OSD to Hon'ble Deputy CM(TW).
The PS to Secretary(TW)
Sf/Sc.

// FORWARDED:: BY ORDER //

Ch Srinivasulu
SECTION OFFICER